

REMARKS/ARGUMENTS

In the Office Action, the information disclosure statement as filed on May 4, 2004 was objected to as failing to comply with 37 C.F.R. 1.98(a)(2). Applicant now encloses a copy of the reference in question, DE 3802402, which is submitted to overcome this objection.

The drawings stand objected to as not showing a claimed embodiment of the invention including further teeth provided along the sides of the triangular formation. This objection is relevant to claim 3 which has been cancelled without prejudice to reinstatement of this claim in the present application, divisional application or any related application sharing the same priority of the instant application as the Law permits. It is submitted therefore in view of this cancellation that the objection to the drawings is now moot.

Claims 11-15 have been objected to under 35 U.S.C. 112 in that there is purportedly no antecedent for the phrase "the handle means". Amended claim 1 now recites a feature of handle means, having basis in, for example, original claims 10-12, Figures 1-2 and the corresponding description. By way of the amendment to claim 1, it is submitted that this objection has thereby been overcome.

Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Woodruff, U.S. Patent No. 3,545,434. After thorough review and careful consideration, it is submitted that the pads B of the scalp massager of Woodruff, which are for "spreading the force applied through massage over a relatively large area" (col. 1 lines 51-53), are not suitable "to separate the hairs and facilitate a zigzag parting" as required in claim 1, but are intended instead to slide over the surface of the hair. Moreover, amended claim 1 further includes an elongate handle means, whereas

there is no hint or suggestion of elongate handle means in Woodruff. It is therefore submitted that claim 1, and the claims dependent thereon, are novel and inventive and not anticipated by Woodruff.

Claims 1, 2, 4, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston, U.S. Patent No. 731,575. The Johnston reference discloses a hair-supporter with points 14, extending from an upper side of a band 11, which have “extremities sufficiently sharp to pierce the hair and allow the same to be impaled thereon”. The points are therefore clearly not suitable “to separate the hairs and facilitate a zig-zag parting” as required, recited and claimed in claim 1, because they would clearly be in danger of injuring the scalp if so applied. Moreover, amended claim 1 includes elongate handle means, whereas there is no hint or suggestion of elongate handle means in Johnston. It is submitted that as the Johnston reference does not meet, claim, teach or even contemplate the elements, Applicant’s claim 1, said claim and all claims dependent thereon, are neither anticipated nor deemed obvious in view of Johnston.

Claims 1, 3, 4, 8-14, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley, U.S. Patent No. 911,571. The disclosure of Bradley appears to be directed to a hair waving device having two sets of mutually moveable bent fingers 9 and 13. From the teaching of this reference, it appears that the device is placed stationary on a head of hair and one set of fingers moved with respect to the other and held in position until the hair sets waved (page 1 lines 85-98). Therefore, there appears to be no explicit or implicit disclosure much less fair suggestion in Bradley of a hairdressing tool in which hair passes on each side of a leading tooth and then between trailing teeth to separate the hairs and facilitate a zigzag parting as

Applicant requires in claim 1. Moreover, it appears to be suggested in the outstanding Action that the teeth 9 and 13 are arranged in a triangular fashion. Applicant, after careful review of the Bradley reference, submits that there is no teaching or suggestion of a single triangular formation wherein a base of the triangular formation is substantially parallel to a longitudinal axis of handle means as required in amended claim 1 of the subject application. For these reasons, independent claim 1 and all rejected claims that depend from claim 1 are believed to be patentably distinct over Bradley.

Claims 1, 3, 4, 7, 8, 10-15 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by De Laforcade, U.S. Patent No. 6,453,909. De Laforcade discloses a hair brush (3) for use as a coloring applicator containing a plurality of brush members, which may include teeth or bristles, arranged in rows at approximately 45° to a handle (2) (col. 6 lines 39-47). There is found no teaching or no suggestion in De Laforcade of a hairdressing tool suitable for producing a zigzag parting having teeth arranged in a single triangular formation with a base of the formation substantially parallel to a longitudinal axis of handle means as claimed in amended claim 1 to support a finding of anticipation under the Law. Therefore, claim 1 and all of the aforementioned claims currently rejected and dependent thereon cannot be considered anticipated by De Laforcade.

Former claim 16 was rejected under U.S.C. 103(a) as being obvious over Bradley. However, claim 16 as amended and provided herein is now dependent on amended claim 1. Claim 1, as argued above, is submitted to be neither anticipated nor obvious in view of Bradley. Therefore, this objection to former claim 16 is now deemed moot.

Claims 5 and 6 are rejected as being obvious citing U.S.C. 103(a) over De Laforcade in view of Wilson, U.S. Patent No. 2,598,330. Wilson is disclosing teeth with enlarged heads. However, amended claim 1, as argued above, is not only deemed to be novel over De Laforcade, but also not obvious as there is no teaching or suggestion in De Laforcade of a hairdressing tool suitable for producing a zigzag parting having teeth arranged in a single triangular formation with a base of the formation substantially parallel to a longitudinal axis of handle means. Likewise, Wilson neither provides these claimed elements as required as recited in Applicant's amended claim 1, there is no motivation in either of De Laforcade or Wilson, either explicit or implicit, providing the requisite motivation for selecting certain elements from each reference with the result of arriving at Applicant's claimed invention. Even if any combination were permissible, there is no guidance for any person skilled in the art to decipher or choose the exact elements Applicant requires to achieve the exact invention as Applicant claims. Therefore, this objection is believed to be overcome and now mooted.

Claim 22 is also rejected as being obvious under U.S.C. 103(a) over De Laforcade in view of Vegh, U.S. Patent No. 2,261,747. Vegh purportedly discloses a device with a comb at one end and a brush at the other end. Since claim 22 depends on newly amended claim 1, which is deemed novel with respect to De Laforcade and as there is no suggestion either implicitly or explicitly in either De Laforcade or Vegh to provide a hairdressing tool suitable for producing a zigzag parting having teeth arranged in a single triangular formation with a base of the formation substantially parallel to a longitudinal axis of handle means, then claim 22 is submitted to be not only novel, but also not obvious even if it were deemed permissible to combine the De Laforcade and Vegh references. Additionally, the deficiencies of De Laforcade as

disclosed above are not overcome by Vegh as this reference does not disclose nor teach much less suggest these deficiencies. Even if one were to find a disclosure of said deficiencies in Vegh, there is no teaching for combining these two references to arrive at what Applicant has claimed. Absent any direct teaching of how to combine the elements of De Laforcade with Vegh would be the result of 20/20 hindsight and therefore not permissible under the Law.

In view of the aforementioned amendments and distinguishing and supportive arguments, favourable reconsideration and the early issuance of the Notice of Allowance is respectfully submitted.

In the event any issues are outstanding which the Examiner believes can be brought to successful conclusion via telephone conversation, Applicant, through their undersigned representative, would encourage the same.

Respectfully Submitted,

Date:

11/30/06

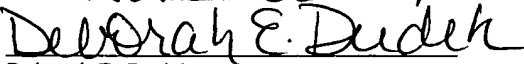

Timothy J. Keefer, Reg. No. 35,567

SEYFARTH SHAW LLP
131 S. Dearborn Street
Suite 2400
Chicago, Illinois 60603-5577
Telephone: (312) 460-5000
Facsimile: (312) 460-7000

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Mail Stop: Fee Amendment.

Date: November 30, 2006


Deborah E. Dudek